

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1199 of 2023

Applicant :- Rahul

Opposite Party :- State Of U.P. Thru. Secy. Home Civil Sectt. Lko.

Counsel for Applicant :- Amitabh Tripathi

Counsel for Opposite Party :- G.A., Mohammad Suhel Siddiqui

Hon'ble Brij Raj Singh, J.

1. Learned counsel for the complainant is not present.
2. Heard learned counsel for the applicant, Sri Ran Vijay Singh, learned A.G.A. for the State and perused record.
3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in FIR No.365 of 2022 under Section 498-A/304-B IPC and Section 3/4 of Dowry Prohibition Act, PS Mill Area, district Rae Bareli.
4. Learned counsel for the applicant has submitted that PW-1 father and PW-2 mother of deceased have been declared hostile and they have not supported the prosecution case. Learned counsel for the applicant has invited attention of this Court towards the statement of PW-1 father of deceased who deposed before the Court that his daughter was not harassed by her inlaws and she was never beaten by them. He has further denied entire prosecution case and has deposed that FIR was got to be typed but the same was not read before him and he has been declared hostile. He has also denied the entire version of statement under Section 161 rPC.
5. Similarly, PW-2 mother of deceased has also been declared hostile and she has not supported the prosecution case and denied the statement under Section 161 CrPC. Learned counsel for the applicant has submitted that once father and mother of deceased have been declared hostile and they have deposed that no dowry was demanded, at this moment, it cannot be inferred that the applicant was involved in commission of crime. He has further submitted that ingredient of Section 304-B IPC are not made out. He has further submitted that the applicant has no other criminal history and he is in jail since 27.8.2022.
6. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid fact that the PW-1 father and PW-2 mother of deceased have been declared hostile and they have not supported the prosecution case.
7. Considering over all facts and circumstances of the case, the argument that PW-1 and 2, the father and mother of prosecutrix have been declared hostile and they have not supported the prosecution case, it is a fit case for bail.

8. Let the applicant, Rahul be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 29.11.2023
Rajneesh JR-PS)